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Mr. Chairman and members of the Sub-Committee, I am Leroy Frazer, Jr., Bureau Chief of the Special Prosecutions Bureau in the Manhattan District Attorney's Office. I appreciate this opportunity to appear before you today to testify on behalf of Robert M. Morgenthau, the District Attorney of New York County, regarding the fraud cases our office prosecuted in the wake of the September 11th attacks. Permit me to introduce to the members of the subcommittee my Deputy Bureau Chief, Joan Delaney.

The horrific attacks on September 11, 2001 led to an unprecedented out pouring of charitable donations by the American people. These donations and the aid designated by Congress were administered primarily by FEMA, the American Red Cross and Safe Horizons Corporation. At a time when countless acts of heroism were exhibited, others tried to profit from the confusion.

I appear before you to relay our efforts in combating fraud in the aftermath of the 9/11 attacks on our nation. Although the amount of fraud detected represented a small percentage of the funds allocated, we felt and still feel that it is essential for the public to know that there would be a strong effort to detect and prosecute individuals responsible for taking advantage of a national tragedy to line their own pockets. To that end the Manhattan District Attorney's office prosecuted 539 September 11th related cases, with approximately 98% of them fraud-related with proceeds totaling over \$5.8 million dollars. We also learned some valuable lessons on how to detect and combat such fraud and how, in the future, we can seek to prevent it from occurring in the first place.

In the immediate aftermath of the attacks it was clear that most New Yorkers wanted to help in any way possible. Long lines formed throughout the city to give blood only to find out that, unfortunately, there was not going to be a significant need. Some donated supplies to the search and rescue workers at ground zero while still others volunteered to distribute food and supplies, or to help affected people fill out forms to request aid. However as we soon learned, along with those who wanted to help, came others who sought to prey upon tragedy to promote their own self interests.

Initially we met with the Inspector General from FEMA who informed us that it is not uncommon in instances of national disasters that people unaffected by the disaster submit fraudulent applications for aid. To address that we felt it was important to centralize investigative efforts both within and without the office in order to be effective. Towards that end Mr. Morgenthau directed that the frauds committed against the charities be handled principally by one section of the office, the Special Prosecutions Bureau. Next we determined that the principal organizations that were distributing funds were FEMA, American Red Cross, Safe Horizons and the Robin Hood Foundation. We arranged to have contact persons at each for purposes of receiving grand jury subpoenas when needed and coordinating the dissemination of information.

We also coordinated the efforts of law enforcement. A meeting was called with representatives from the following agencies: FEMA, Social Security, Postal Inspectors, FBI, Secret Service, INS, New York State Attorney General, the New York State Insurance Department, NYPD, NYC Department of Investigation, and NYC Department of Law. Once again individuals were designated to ensure the coordinated flow of information. This proved to be essential in our prosecutions because most defendants applied to several different charities and many lived outside of New York City.

The initial wave of arrests came about because a worker from the Port Authority of New York and New Jersey alerted the agency's Inspector General that some of its workers were applying for aid from the Red Cross claiming that they lost days at work due to 9/11. Even though Port Authority offices were located in the World Trade Center, the Port Authority had relocated its workers and no one lost even a single day's pay. We investigated the allegations and on November 8, 2001 arrested twelve workers for lying to the Red Cross and Safe Horizons in order to receive relief funds. Further investigation resulted in a dozen more being charged two months later. The thefts totaled \$19,582.

I indicated earlier the citizens of New York City volunteered to help in any way possible. A group of lawyers volunteered to help victim's families fill out the paperwork to expedite death certificates. This valuable program was coordinated by the NYC Law Department, but there were those who took unfair advantage of it. As a result of a coordinated multi-agency investigation on March 21, 2002 we announced charges against 22 people for filing for death certificates falsely claiming that members of their family died in the attacks. Fourteen of the defendants received funds totaling \$759,465, while the other eight were caught before they received any funds. These cases included:

- A Michigan man, Daniel Djoro, who reported that his brother, Daniel Zagbre, had been at the World trade center for a business meeting at the time of the attacks. Daniel Zagbre was in fact a fictitious name the defendant himself had used in the past. Djoro obtained \$272,800 from the Red Cross and Safe Horizon. Djoro pled guilty and was sentenced to 4 years in jail.
- A Queens's man, Cyril Kendall, reported that his 13th child had accompanied him to a job interview at the World Trade Center and had perished in the attack. The investigation revealed that the child never existed and in fact the name he had given had been used in the past as an alias by two of his other 12 children. Kendall received a total of \$190,000 from Red Cross and Safe Horizon. Upon conviction after trial Kendall was sentenced to 30 years in jail.
- A Utah man, Ricardo Frutos, claimed that a brother, niece and nephew died at the World Trade Center. The investigation revealed that the people reported dead had never existed, a fact which was confirmed by family members. Frutos received \$47,257 from Red Cross. He pled guilty and was sentenced to 3 years in jail.

Additional prosecutions demonstrated the extent that individuals would go in order to fraudulently obtain funds. One such person was Carlton McNish who reported that his wife, Jisley McNish, went to work that morning at Cantor Fitzgerald and never returned home. He reported this to the New York City Police Department on October 3, 2001 and then submitted DNA from a hairbrush and a comb to the New York City Office of the Chief Medical Examiner's Office on October 5, 2001. McNish then went to Pier 94 on October 16, 2001 and met with a volunteer attorney who helped him fill out an affidavit to apply for a death certificate. In the affidavit, the defendant claimed that his wife went to work that morning at Cantor Fitzgerald and that she called him at around 9:30 a.m. to tell him that an airplane had hit the building, that the building was filling with smoke and that she and several co-worker's were trying to leave. He claimed that she never returned home that day. The affidavit was ultimately filed with the New York City Corporation Counsel. The wife's name was included on the City's official list of missing persons and the name appears on the World Trade Center memorial.

The defendant submitted a copy of this affidavit and a picture of his "deceased wife" to the Medical Examiner's office. He submitted an affidavit to the American Red Cross, Safe Horizon and the Salvation Army, claiming that he was in need of financial assistance because he was dependent on his wife's income and obligated to support their three children. From October 2001 to January 2002, the defendant received \$68,000 from the American Red Cross, \$30,000 from Safe Horizon, and \$1,000 from the Salvation Army. In addition, he received \$5,000 from the Robin Hood Foundation because his wife's name was on the Mayor's official list of missing persons. The defendant also called in an application to the Federal Emergency Management Administration, but did not get any money after the certification form that was mailed to him was returned unsigned.

Meanwhile, in November of 2001, the defendant went to a funeral home in the Bronx and arranged a memorial service for his deceased wife which occurred in December of 2002. He gave the funeral home a photo of the woman which was used in the memorial program detailing the life of "Jasclliny McNish." The funeral home helped the defendant apply to the Crime Victim's Assistance Board in Albany to get funds to pay for the memorial service. The defendant also submitted the funeral bill to the American Red Cross and Safe Horizon and received money from both charities for the full amount of the bill which totaled \$6,279. The American Red Cross became suspicious when as of March of 2002; the defendant could not provide documentation for his "children" or for his wife's employment at Cantor Fitzgerald. They contacted Cantor Fitzgerald and were informed that no one by the name "Jocelyn McNish" (the name the defendant gave the American Red Cross) or "Jasclliny McNish" (the name on the affidavit) ever worked for Cantor Fitzgerald. At the same time, the NYPD was investigating the defendant's missing person report because he could not confirm the spelling of his wife's name, her employment and various other pertinent details that should have been known to him.

During the course of the investigation, it was discovered that the defendant was not married to anyone by the name of Jasclliny, Jisley or Jocelyn McNish, and that he did not have three minor children as he claimed on his various applications for relief. There is no evidence that, even though her name was read from the list of those killed at the World Trade Center during the 2002 and 2003 memorial services, the woman the defendant claimed to be his deceased wife ever existed. McNish pled guilty and was sentenced to 7 years in jail.

Woodrow Flemming was a 48 year old homeless man who resided in a city shelter. He claimed to have been a vendor in the World Trade Center area and produced a W-2 form purportedly from Woodrow Flemming and Associates and a forged letter on the letterhead of an attorney attesting to the fact that the attorney had purchased books from him. Upon receiving close to \$10,000 in aid, Flemming recruited several additional "employees" from the shelter and brought them to the relief center, supplied them with similar forged documents, and paid them between \$100 and \$1100 in order to turn over their relief checks to him. In total, Flemming stole \$108,905. Each defendant eventually pled guilty and Flemming was sentenced to 12 years in jail.

A similar case involved a business called K.C.'s Barbershop which was located approximately four blocks from the World Trade Center. It actually was a very small shop with room for one barber's chair, yet 11 barbers submitted documentation claiming to have worked there and each one was prosecuted.

Beatrice Kaufman had a business and residence in the affected area. She owned a temporary employment agency and had planned to combine and renovate two apartments. During the summer of 2001 she had made arrangements to stay at the Helmsley Carlton Hotel during the construction period and was due to relocate there on September 11, 2001. Construction had begun prior to 9/11 and she was living in her home in the Hamptons, where she remained on 9/11. After returning to the city post 9/11, Kaufman submitted identical bills for her hotel fees and living expenses to her personal and business insurance carriers, as well as FEMA, falsely claiming that the World Trade Center attacks had caused her to suddenly and unexpectedly evacuate her apartment and that her agency had lost valuable contracts due to the attacks. She told her insurers and FEMA that she was physically and emotionally unable to return to her apartment until February 2002, a date which happened to coincide with the completion of the renovation. In total she received \$108,713 from her insurance companies and \$5,940 from FEMA. She pled guilty and received a sentence of 6 months jail and 4 ½ years probation.

Finally I will tell you about thefts from the city's Municipal Credit Union (MCU). MCU's membership is open to, among others, employees of the city, state and federal governments and employees in the health care industry, and is located at 22 Cortlandt Street, near where the World Trade Center towers stood. As a result of the collapse of the towers, MCU's own ATM machines were disabled and MCU intermittently lost its computer link to the New York Cash Exchange (NYSE) network which administers bank-to-bank transactions and processes ATM transactions, including withdrawals. When the link to the NYCE network was interrupted, NYCE had no ability to access MCU account balances to ensure that there were sufficient funds to cover a withdrawal when a member withdrew cash using his MCU-issued ATM card or used as a Visa credit card. Upon learning this MCU made a determination not to shut down its entire ATM operation because of the hardship it might impose on members, particularly those adversely affected by the tragedy, but rather to allow NYCE to continue to dispense cash to MCU account holders. Although the vast majority of its members abided by this short term "honor system," a number of them withdrew amounts of money far in excess of their normal balances. Initial estimates for unauthorized withdrawals totaled 4000 employees and as much as \$15 million. MCU offered those who had overdrawn an opportunity to convert the unauthorized withdrawals to personal loans and many did. Subsequently our office, working with the NYC

Department of Investigation and NYPD, arrested 101 individuals who illegally withdrew amounts in excess of \$7500. Examples of their cases are:

- Terry Hutchinson-Jones, a nurse at Manhattan Psychiatric Center, never had a positive end of month balance in the eight months prior to 9/11. Despite the fact that she had a negative account balance for all that time, she made 54 ATM cash withdrawals between September 18th and the end of October, leaving her with a balance of -\$18,111.01. Twenty-three of those withdrawals were for \$500 each; for example, she made two withdrawals of \$500 each from the same branch of Banco Popular on October 4th, 5th, 6th, 7th, 8th, and 9th, among other withdrawals.
- James Allen, an employee of the Housing Authority, never had an end of month account balance that exceeded \$130 in the eight months prior to 9/11. Nonetheless, he made 53 ATM withdrawals ranging from \$20 to \$300 each, and charged 101 Visa purchases using his Municipal Credit Union ATM card between September 19th and October 22nd. The Visa purchases were at stores including Foot Locker, Jimmy Jazz, Joy Joy Jewelry, Bronx BBQ, Hot Booz Liquor and the 216th Street Motel. As a result of this activity, this individual's account balance was -\$10,378.70 as of the end of October, 2001.
- An employee of Mt. Sinai Hospital never had an end of month account balance that exceeded \$95 in the six months prior to 9/11. Despite that, he made 91 ATM withdrawals from September 16th to October 30th, when his account balance reached -\$10,757.37. Sixty-one of those withdrawals were for \$100. For example, on September 16th, he made one cash withdrawal of \$20, followed by four more for \$40 each, and followed by three for \$100 each, all from the same ATM location. The next day, September 17th, he made three cash withdrawals of \$100 each from the same Chase branch in the Bronx; two more \$100 withdrawals were made from the same Chase branch on September 18th. On September 19th, he made two \$100 cash withdrawals and used his ATM card to make six debit purchases, including the purchase of two Metro cards. By October 2nd, and in the days that followed, many of his cash withdrawals were for \$200 each.
- Another Municipal Credit Union member never had an end of month account balance that exceeded \$566 in the eight months prior to 9/11. Nevertheless, he made 50 ATM withdrawals totaling \$8,700 between September 16th and November 8th. He also used his MCU card to make 89 Visa purchases at stores including Gap, Cookies Department Store, Leather World, Barefoot Shoes, Jeans Plus, Dynasty Restaurant, and BX Sports. As a result of this activity, his account balance was -\$12,570.75 at the end of November, 2001.

Subsequent to first round of arrests, a substantial number of members contacted the Municipal Credit Union to convert their unauthorized withdrawals to personal loans and begin repayments. Ten months later we conducted a second round of arrests targeting those individuals who had taken amounts in excess of \$5000. We found these group arrests were an effective tool in getting people to take responsibility for their actions.

There were some obvious problems that arose in the investigation and prosecution of the 9/11 fraud cases. Many of the charity's volunteers were from different parts of the country which made it more difficult to contact witnesses to investigate cases and sufficiently prepare them for Grand Jury proceedings. Additionally, due to the high volume of applications processed, volunteers were not always able to recall the details of every interview conducted. It would be helpful in the future if there was a training program for relief workers, including an orientation program regarding tools to employ to detect fraud in screening applications for aid. While it is difficult to detect a fraudulent claim at the outset, the more supporting documentation obtained from a claimant the better equipped we would be to investigate and prosecute a fraudulent claim. Moreover, there should be prominent and conspicuous language on all applications for aid warning that the statements made are done so under a penalty of perjury and, if false statements are made, the claimant will be prosecuted. In addition, it would be prudent to require that declarations of loss contain a notary's signature. Nevertheless, despite numerous instances of fraud, it was evident from interviewing employees and volunteers of the relief agencies, that each of them was committed to assisting victims of the 9/11 disaster in an expeditious manner.

The New York County District Attorney's Office has been successful in prosecuting those who unlawfully attempted to enrich themselves by taking advantage of the tragedy that affected our nation. Those who made a calculated decision to take money and profit from the confusion during a time of a national crisis were apprehended and punished. As a result of the District Attorney's prosecutions, an important message was conveyed to the public that those who thought they could profit from the World Trade Center aftermath were mistaken.

I would be pleased to answer any questions.